

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed November 28, 2006 (the "Office Action"). At the time of the Office Action, Claims 1-28 were pending and stand rejected. Applicants amend Claims 1, 8, 14 and 21 and cancel Claims 5, 13, 18 and 26.

Section 102 Rejections – Claims 1-5 and 14-18

The Office Action rejects Claims 1-5 and 14-18 under 35 U.S.C. 102(e) as being anticipated by U.S. Publication No. 2004/0008931 to Bacque ("*Bacque*"). Applicants respectfully traverse these rejections.

Amended Claim 1 recites a demux-mux module operable to selectively pass or terminate individual channels of the filtered traffic in the first sub-band before communication in the second optical ring. Claim 14 recites similar elements. Similar elements initially appeared in original Claims 5 and 18. The Office Action states that *Bacque* does not disclose a demux-mux module "operable to selectively pass or terminate individual channels of the filtered traffic in the first sub-band before communication in the second optical ring." Office Action, pages 3-4. The Office Action additionally suggests that "Bacque's system is fully capable for selectively passing or terminating individual channels of the filtered traffic in the first sub-band before communication in the second optical ring; that is, the teaching of the reference is functionally equivalent to the claimed limitation." Office Action, page 4. However, with respect to anticipation under §102, the Court of Appeals for the Federal Circuit has consistently adhered to the basic principle that: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989) (emphasis added); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131. The fact that a system may be capable of including the recited claim element does not provide the necessary disclosure to support an anticipation rejection. There is no disclosure in *Bacque* of the recited element in as complete detail as contained in the claim. Therefore, for at least these reasons,

Applicants respectfully submit that Claims 1 and 14 are patentable over the cited art used in the rejections.

Claims 2-4 each depends from Claim 1 and Claims 15-17 each depends from Claim 14. Thus, for at least the reasons discussed above with respect to Claims 1 and 14 Applicants respectfully request that the rejections of Claims 2-4 and 15-17 be withdrawn.

Section 102 Rejections – Claims 8-11 and 21-24

The Office Action rejects Claims 8-11 and 21-24 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,895,186 to Stern ("*Stern*"). Applicants respectfully traverse these rejections.

Amended Claim 8 recites wherein the second interconnect node is operable to selectively switch to the first optical ring traffic in the first sub-band from the second optical ring and wherein the first interconnect node operable to receive the switched traffic in the first sub-band from the second optical ring for communication in the first optical ring. Claim 21 recites similar elements. Similar elements initially appeared in original Claims 13 and 26. The Office Action states that *Stern* does not disclose these elements. *See* Office Action, pages 18-19. The Office Action also states that:

[S]imilar the connection from the output of switch 407 to the input of switch 418, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the second interconnect node to also direct first sub-band from the second optical ring for communication to the first optical ring; that is to make the output switch 418 to be connected to the input of switch 407 (that is, 208 -> 207 in Figure 4).

Office Action, page 19. However, there is no motivation for such a modification to *Stern*. The rings in *Stern* are bi-directional rings of the same network sharing multiple nodes. *See, e.g., Stern*, Figure 1. Because the rings are of the same network and share multiple other nodes, simply connecting an output of switch 418 to an input of switch 407 would cause traffic collision because traffic carried in the same wavelengths (e.g., the wavelength communicated to switch 418) would collide with each other. In addition, such a modification would make *Stern* inoperable for its intended purpose because there would be no output from switch 418 to network access station 102 which would prevent communication of traffic in the wavelength handled by switch 418 from node 100 to network access station 102.

Therefore, for at least these reasons, Applicants respectfully submit that Claims 8 and 21 are patentable over the cited art used in the rejections.

Claims 9-11 each depends from Claim 8 and Claims 22-24 each depends from Claim 21. Thus, for at least the reasons discussed above with respect to Claims 8 and 21 Applicants respectfully request that the rejections of Claims 9-11 and 22-24 be withdrawn.

Section 102 Rejections – Claim 27

The Office Action rejects Claim 27 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,616,349 to Li et al. ("*Li*"). Applicants respectfully traverse these rejections.

Claim 27 recites first and second sub-band interconnect nodes each operable to filter traffic in a first sub-band from one optical ring to another. The Office Action suggests that *Li* discloses these elements at 50 and 60 of Figure 2 of *Li*. See Office Action, pages 9-10. However, as the Office Action indicates, elements 50 and 60 use wavelength selective switches to switch traffic from one ring to another. *Li* does not disclose interconnect nodes that filter traffic in a sub-band from one ring to another. Therefore, for at least these reasons, Applicants respectfully submit that Claim 27 is patentable over the cited art used in the rejection and request that the rejection of this claim be withdrawn. Claim 28 depends from Claim 27. Thus, for at least the reasons discussed above with respect to Claim 27, Applicants respectfully request that the rejection of Claim 28 be withdrawn.

Section 103 Rejections

The Office Action rejects Claim 6 under 35 U.S.C. 103(a) as being unpatentable over *Bacque* as applied to Claim 1 above, and in view of U.S. Patent No. 6,061,157 to Terahara ("*Terahara*"). The Office Action rejects Claim 19 under 35 U.S.C. 103(a) as being unpatentable over *Bacque* as applied to Claim 14 above, and in view of *Li*. The Office Action rejects Claims 7 and 20 under 35 U.S.C. 103(a) as being unpatentable over *Bacque* as applied to Claims 1 and 14 above, and in view of *Terahara* and *Stern*. The Office Action rejects Claims 12 and 25 under 35 U.S.C. 103(a) as being unpatentable over *Stern* as applied to Claims 8 and 21 above, and in view of *Bacque*. The Office Action rejects Claims 13 and 26 under 35 U.S.C. 103(a) as being unpatentable over *Stern* as applied to Claims 8 and 21 above, and in view of *Terahara*. The Office Action rejects Claim 28 under 35 U.S.C. 103(a)

as being unpatentable over *Li* as applied to Claim 27 above, and in view of *Bacque*. Applicants respectfully traverse these rejections.

Claims 6-7 each depends from Claim 1, Claims 12-13 each depends from Claim 8, Claims 19-20 each depends from Claim 14 and Claims 25-26 each depends from Claim 21. Thus, for at least the reasons discussed above with respect to Claims 1, 8, 14 and 21, Applicants respectfully request that the rejections of Claims 6-7, 12-13, 19-20 and 25-26 be withdrawn.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

No fee is believed to be due. However, the Commissioner is hereby authorized to charge any fees due or credit any overpayments, to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

Respectfully submitted,

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